1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 WESTERN DISTRICT OF WASHINGTON AT TACOMA 9 10 TERAZE TAYLOR, CASE NO. 21-5224 RJB 11 Plaintiff, ORDER DENYING MOTION FOR 12 SUMMARY JUDGMENT v. 13 WASHINGTON DEPARTMENT OF CORRECTIONS, ALYSSA KEKOA-14 OSHIRO, JACQUELINE NELSON, DAVID SATHERS, JEFF KINNE, 15 DANIELLE ARMBRUSTER, STEPHEN SINCLAIRE, MAURO PARTIDA, GWIN 16 PENSROSE, 17 Defendants. 18 This matter comes before the Court on Plaintiff's Motion for Summary Judgment. Dkt. 19 19. The Court has considered the pleadings filed in support of and in opposition to the motion 20 and the file herein. 21 **FACTS** 22 On March 27, 2021, the Plaintiff, acting pro se, filed this civil rights case, applied to 23 proceed in forma pauperis ("IFP"), and provided a proposed complaint. Dkts. 1 and 1-1. After 24

being granted leave to amend, the Plaintiff filed an Amended Complaint. Dkt. 9. The Plaintiff makes federal claims for violation of his due process and equal protection rights under the Fourteenth Amendment, pursuant to 42 U.S.C. § 1983, and makes state law claims for fraudulent representation and gross negligence. Dkt. 9. On May 14, 2021, the Plaintiff's IFP application was granted. Dkt. 8. On July 23, 2021, the Defendants appeared and filed an Answer to the Amended Complaint. Dkt. 16. The Joint Status Report and Discovery Plan ("JSR") is due September 13, 2021. Dkt. 12.

The Plaintiff now moves for summary judgment against the Defendants, relying on the Defendants' Answer, and arguing that the Defendants have "responded to the instant matter with general denials in the instant matter without providing substantiation or specificity as to each of the denials claimed." Dkt. 19. He contends that this case "consists of numerous intentional and egregious infringements on the civil rights of Plaintiff . . . the factual basis of which is substantiated by over 400 pages of evidence." *Id.* The Plaintiff asserts that the Defendants' Answer demonstrates that there are no disputes of material fact and the Plaintiff is entitled to a judgment as a matter of law. *Id.* The Defendants oppose the motion. Dkt. 21. The Plaintiff has replied (Dkt. 23) and the motion is ready for a decision.

DISCUSSION

Summary judgment is proper only if the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law. Fed. R. Civ. P. 56 (a). The moving party is entitled to judgment as a matter of law when the nonmoving party fails to make a sufficient showing on an essential element of a claim in the case on which the nonmoving party has the burden of proof. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1985).

The Plaintiff's motion for summary judgment (Dkt. 19) should be denied as premature and without merit. This case is just beginning. The parties have not held their status conference or filed their Joint Status Report. No discovery has occurred. The Defendants filed their Answer in accord with Fed. R. Civ. P. 8(b)(1), which merely requires that "[i]n responding to a pleading [like the Plaintiff's Amended Complaint] a party must . . . admit or deny allegations asserted against it by an opposing party."

Moreover, the Plaintiff has the burden of proof on each of the claims he asserts. He has failed to point to undisputed admissible evidence which supports each element of his claims. He is not entitled to a judgment as a matter of law.

ORDER

Therefore, it is hereby **ORDERED** that:

• Plaintiff's Motion for Summary Judgment (Dkt. 19) IS DENIED.

The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any party appearing *pro se* at said party's last known address.

Dated this 30th day of August, 2021.

ROBERT J. BRYAN

United States District Judge